



PECFA POST



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WE LOVE HEARING FROM YOU, BUT...

We are living in an age when information can be sent and received almost instantaneously. Yes, that's a good thing; however, when submitting requests to the Petroleum Environmental Cleanup Fund Acts (PECFA's) Site Review Section, "Whoa! Slow down!" The Section is receiving more requests for approval by e-mail and fax than ever before. Nevertheless, just because letters are sent to the Section quickly, doesn't mean they are considered "official requests."

Due to the nature of a request for PECFA funds and the possible ramifications of a staff decision, the Site Review Section for the time being will remain *old fashioned*. Therefore, if the claimant expects an official or binding decision from the Site Review Section, please follow the guidelines below:

- Hard copy requests will be considered "official" when received either via the postal service, an alternative delivery service or by hand-delivery.
- An e-mail message does not constitute an official request and should not be the communication vehicle when requesting an official decision regarding funding.
- An e-mail with an Adobe (pdf) attachment will be considered an official request or decision document if the document is signed, the claimant is identified and the e-mail request carbon copies the claimant.
- An e-mailed or faxed letterhead document is considered a preliminary request and Commerce will not consider this the official request. A follow-up hard copy must be submitted to the appropriate Commerce office.

The phone, fax and e-mail are helpful to expedite cases or provide status information that will be formally presented in a report later. However, for major decisions, such as approval of PECFA funding, please send official requests as outlined above.

GIS REGISTRY PACKET SUBMITTAL, A REMINDER

Since the inception of the Department of Natural Resources (DNR) GIS Registry, confusion has persisted with regard to GIS Registry packet submittals. No more! To reduce errors and omissions in GIS Registry packets, it is imperative that submitters review, including the small print, the DNR "Checklist of Documents for GIS Registry Packet" thoroughly.

In This Issue . . .

[Travel Rates Change](#)

Page 2

[Paying for Petroleum
Cleanups After
PECFA](#)

Page 3

[Tentative Annual
Reporting](#)

Page 4

[BRRTS on the Web](#)

Page 5

Incomplete packets continue to delay closure decisions however, adhering to the bullets below will result in a more complete package and fewer delays:

- Submit GIS Registry packets for Commerce managed sites to Commerce only. Do not submit copies to the (DNR). After it has been determined the packets are complete and accurate, Commerce sends the packets to the DNR for inclusion on the GIS Registry.
- Submit GIS Registry packets for DNR managed sites to the DNR only.
- Tables are not to include shading.
- Figures are to be no larger than 11 inches by 14 inches.
- When the legal description in the most recent property deed references a plat or survey map, the referenced plat or survey map must be included with the packet.
- All GIS Registry fees (Commerce or DNR managed sites) must be made payable to the DNR and sent to program assistant in the DNR district where the site is located. The Bureau of Remediation and Redevelopment Tracking System (BRRTS) number for the site must be included on the memo line of the check.

TRAVEL RATES CHANGE

As of August 1, 2005, the State rates for vehicle mileage have changed. The mileage reimbursement rate changed from \$0.325 to \$0.385. The rate for specially equipped vehicles or vans changed from \$0.50 to \$0.56. The meal rates stayed the same.

Just a reminder: These rates will be in effect until the Usual and Customary Cost Schedule is implemented.

A simple and concise pocket travel guide from the Office of State Employment Relations (OSER) is available at: <http://oser.state.wi.us/docview.asp?docid=5025>.

NO ADDITIONAL FUNDING...

Commerce would like to remind RP's and consultants that PECFA does not allocate additional funding for the replacement of monitoring wells that are lost or destroyed during repaving or site construction. Furthermore, funding is not provided for additional site visits due to inaccessibility of site monitoring points.

PECFA Post circulation and a request for Topics of Concern

We are continuing to move toward total electronic distribution of the *PECFA Post*. To subscribe electronically go to <http://commerce.state.wi.us/ER/ER-PECFA-News.html> - #PecfaPost and scroll down to the subscribe box. You will receive an email to confirm your email address. Upon confirmation you will have been added to the electronic distribution list. If you do not have e-mail, you may call, (920) 303-5410, or write Beth Erdman at ERS Division, Bureau of PECFA, 2129 Jackson Street, Oshkosh WI 54901 and request to be placed on a mailing list.

We are always happy to receive suggestions for future *Post* topics or comments on current articles. Please use contact Beth Erdman at berdman@commerce.state.wi.us or mail suggestions or topics to the address listed above.

Commerce suggests that if resurfacing parking lots or site construction is going to take place, someone be on site to mark the location of the monitoring points so that they are not buried or destroyed. This also includes communicating with off site property owners as well. If the wells are not left open/accessible for further monitoring or abandonment, a notice must be placed on the property deed at the time of closure stating that if the well is encountered in the future it must be properly abandoned according to Wisconsin Administrative Code (WAC) NR 141.

In addition to the above Commerce has received a number of requests for additional funding to make second visits to sites to sample the monitoring points because they were inaccessible during the initial visit. Reasons vary from vehicles parked over the well, to the inability to locate or open them. Commerce suggests that consultants contact the RP or current property owner prior to the date of sampling to ensure that all wells will be accessible on the date the sampling is to take place and to be prepared for all situations to locate and open the monitoring wells.

PAYING FOR PETROLEUM CLEANUPS AFTER PECFA

On October 26, 1988, the United States Environmental Protection Agency (EPA) finalized 40 CFR Subpart H Sections 280.90 through 280.116. These sections required owners and operators of petroleum underground storage tank (UST) systems to have a financial mechanism or a combination of financial mechanisms that would provide sufficient and immediately available funds to pay cleanup costs and third party damages resulting from accidental releases from these systems. State of Wisconsin officials and various stakeholders recognized early on that there were numerous old USTs scattered across Wisconsin with the potential of contamination being discovered as replacement, upgrading, and closing of these tanks took place. It was clear that significant funds would be required to complete cleanups.

On August 1, 1987, PECFA was implemented. Wisconsin's political leadership made it very clear to all stakeholders that it did not intend for the fund to function as a permanent financial responsibility mechanism. This was a role more appropriate for the private sector. In general, PECFA was to pay for the cleanup of historic contamination and then allow private sector insurance to provide financial responsibility coverage for all new releases. They reasoned that by using state funds to clean up historic contamination, Wisconsin was effectively removing one of the biggest concerns of private insurers - existing contamination.

On January 1, 1996, the effective date of a 1994 amendment to PECFA, all new and upgraded systems or sites with completed investigations and remediations were to have secured alternative financial responsibility. On December 22, 1998, PECFA effectively ceased to function as a financial responsibility mechanism for operating systems. As of that date, all operating systems had to be either upgraded or replaced by a new system and have their own form of financial responsibility in place. If they were operating and had not yet upgraded or been replaced by a new system, then they would be out of compliance with both federal and state regulations, making them ineligible for PECFA funding.

Following are issues that have been encountered during the transition to private insurance:

- Some owners/operators do not like having to obtain private insurance because they are paying the inspection fee that funds PECFA.
- Some owners/operators are not aware that they must have private insurance.

- Some owners/operators are unable to qualify for private insurance most commonly because their UST system is simply too old (even though it may have been upgraded) and they cannot afford the premium.
- Partial or full private insurance claim denial due to a commingled plume or recent detection from an old release.
- Owners/operators drop insurance after they secure permit to operate.
- Insurance application misrepresentation.
- An increasing number of private insurers no longer underwriting policies in Wisconsin.
- An increasing number of aging UST systems.

Commerce continues to gather data to determine the effectiveness of private insurance as the payment mechanism for future cleanups.

TENTATIVE ANNUAL REPORTING/OCCURRENCE CLASSIFICATION DEADLINES

The Commerce reporting period for Annual Reporting/Occurrence Classification is underway. The reporting can be completed by consultants or RP's using the convenience of the world wide web. The reporting link is labeled "[Annual Site Reporting Page](http://commerce.wi.gov/ER/ER-PECFA-Home.html)" on the PECFA home page <http://commerce.wi.gov/ER/ER-PECFA-Home.html>.

Proposed changes to WAC chapter Comm 47 (Comm 47) include the provision that occurrence classifications must be completed within thirty days of the effective date of the new Comm 47. At this time it is anticipated that the new Comm 47 will become effective on January 1, 2006. Therefore, it is anticipated that all Annual Reporting/Occurrence Classifications must be completed by January 31, 2006.

Questions regarding Annual Reporting/Occurrence Classification should be submitted via email to siteclassification@commerce.state.wi.us or by telephone at 608-261-5401. Questions regarding the open or closed status of your site/occurrence should first be directed to the project manager for each site. Please note that this reporting requirement is different than the recent reporting request asking for outstanding PECFA loan balances.

CONSULTANT INSURANCE

Per Comm 47.40 (3)(c), WAC, consulting firms are required to carry professional liability insurance, including pollution impairment, in the amount of \$1,000,000.00, with a maximum deductible of \$100,000.00. Recently, the Commerce Bureau of PECFA Claim Review Section has received an increasing number of insurance certificates that do not include pollution impairment coverage. Insurance certificates must specify that the proper coverage exists. This requirement will not be included in the Comm 47 rewrite, but will instead be included in Comm 5.

BRRTS ON THE WEB

The new and improved DNR BRRTS is now available on the internet. The BRRTS database can be accessed at:

<http://apps.dnr.state.wi.us:7787/botw/SetUpBasicSearchForm.do>

The new BRRTS has expanded searching capabilities and allows users to exit the DNR website to view the Commerce information and other assorted mapping or imaging sites. By combining the Commerce [Tracker Database](#) with the BRRTS information, a preliminary overview of a site can be developed. This will not take the place of a hands-on file review, but gives an overview of work that has been completed on the property.

BID PROCESS CLARIFICATION

There is confusion regarding the competitive bid process as it relates to consultant selection. Commerce uses the competitive bid process to obtain information to assist in determining the lowest cost method to remediate a site, not to procure a consultant. After the cost cap has been established, the RP can select any consultant to carry out that method for the approved cap.

FINAL STATE BUDGET IMPACTS ON PECFA

Governor Doyle signed Act 25, the 2005-2007 state budget July 25, 2005. In an effort to reduce the Wisconsin deficit, the 2005-2007 budget required cuts in many departments. Commerce's Bureau of PECFA was no exception.

How does this affect PECFA?

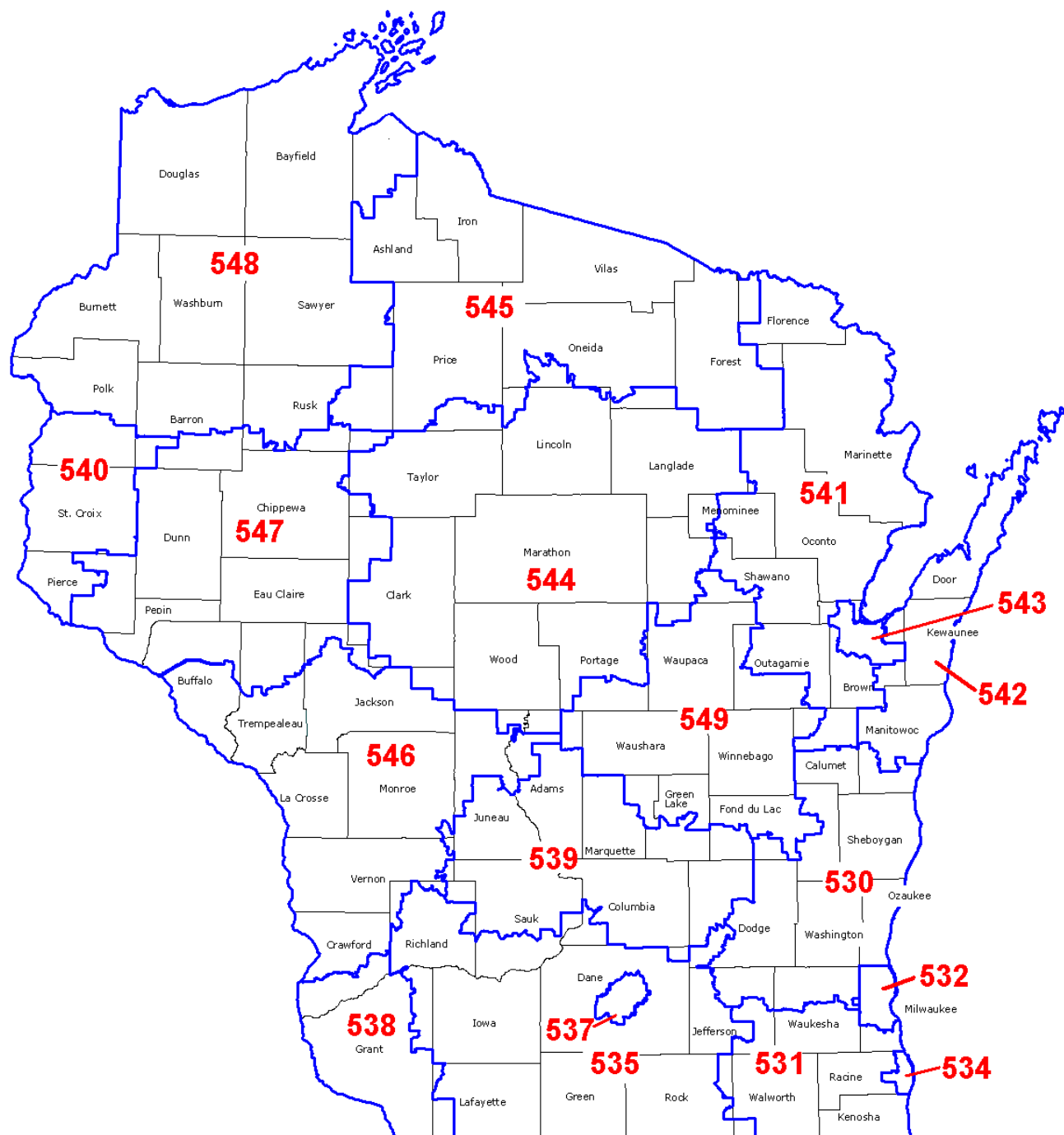
The new budget required that PECFA eliminate three full time positions. This was achieved by eliminating vacancies within PECFA.

The budget also required that the annual PECFA funding for reimbursement payments be reduced to \$40.4 million from 7/1/2005 to 6/30/2006 and to \$37.6 million from 7/1/2006 to 6/30/2007. Technically, this is a two year budget; the actual funding allows spending of \$78 million over the two year period. However, this level of funding represents a \$58 million reduction from base level funding. Annual spending authority is carried through 6/30/2007.

In addition to the above, the budget will reduce the Petroleum Inspection Fee (PIF) by \$0.01 (one cent) a gallon. This reduces overall PIF revenues by approximately \$40 million annually. The reduction will become effective May 1, 2006. It does not affect reimbursement payments, but will impact the flexibility for reducing program debt.

Finally, Governor Doyle vetoed the elimination of the remaining \$49 million dollars in bonding authority and the requirement that Commerce submit a plan to sunset the PECFA program in its 2007-09 biennial budget request.

PECFA SITE REVIEW ZONE COVERAGE MAP



PECFA SITE REVIEW ZONE CONTACT INFORMATION

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*Outagamie, Winnebago, Fond du Lac Counties are project managed by Robert Klauk and the remainder of 549 sites including the City of New London are managed by Dee Zoellner.

PECFA CLAIM REVIEW CONTACT INFORMATION

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